

§ 1439.10

7 CFR Ch. XIV (1-1-97 Edition)

the owner is eligible to receive benefits.

(f) The failure of any contact person to file the necessary receipts or sales documents showing that the terms and conditions of this part and the contract have been met shall render all of the persons ineligible for any payments and benefits under the contract including any payments previously made. Payments made shall be refunded to CCC with interest, if applicable, as determined under § 1439.17 of this subpart.

(g) Any payments or benefits, as determined under § 1439.17 of this subpart, and interest if applicable, made to participating owners for benefits on each feeding period shall be refunded to CCC if the owner does not submit receipts or sales documents to CCC for purchases of feed not later than the tenth working day after the end of each feeding period on the contract.

(h) The failure of a livestock owner to comply with regulations and contract terms regarding changes that may affect the owner's eligibility shall be a violation of the program and shall render the owner ineligible to receive program benefits. However, in the event the provisions of part 791 of this title are applicable to a specific violation, the owner may receive benefits under the program, reduced as follows:

(1) For the owner's first such violation, total benefits available to the owner shall be reduced by an amount equal to 5 percent of the owner's current total benefits available as specified on the latest CCC-651-B or CCC-651, as applicable.

(2) For the owner's second such violation, total benefits available to the owner shall be reduced by an amount equal to 25 percent of the owner's current total benefits available as specified on the latest CCC-651-B or CCC-651, as applicable.

(3) For the owner's third such violation, total benefits available to the owner shall be reduced by an amount equal to 50 percent of the owner's current total benefits available as specified on the latest CCC-651-B or CCC-651, as applicable.

(4) For the owner's fourth such violation, the owner shall be ineligible to receive any benefits under the emergency livestock feed programs and

shall be required to refund any benefits or payments already received, plus any applicable interest as determined by CCC.

§ 1439.10 Termination and suspension of program.

(a) The county committee, in the county that requested emergency livestock feed program assistance, may at any time during the operation of a program recommend suspension or termination of a program. The State committee may at any time during the operation of a program suspend or terminate a program, with the concurrence of DASCOT, for the county that requested emergency livestock feed program assistance. DASCOT may suspend or terminate a program at any time for the county that requested the emergency livestock feed programs. The suspension or termination of a program in a county shall not apply to any application filed prior to the effective date of the suspension or termination of a program. Owners who filed an initial application prior to the termination of the program shall be eligible to file subsequent applications and contracts.

(b) Emergency livestock feed program assistance in a county contiguous to a county that requested and was determined eligible to receive livestock program assistance shall not be suspended or terminated.

[56 FR 33192, July 19, 1991, as amended at 58 FR 62513, Nov. 29, 1993]

§ 1439.11 Maintenance of books and records.

Warehouseman, handlers, dealers, and owners shall maintain and retain financial books and records which will permit verification of all transactions with respect to the provisions of this part for at least 3 years, following the end of the calendar year in which assistance was provided, or for such additional period as CCC may request. An examination of such books and records by a duly authorized representative of the United States Government shall be permitted at any time during business hours. The owner shall, within 30 days after a request by the county committee, submit any requested information

with respect to the owner's livestock feeding operation.

§ 1439.12 Liens and claims of creditors; setoffs.

Any payment or benefit or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government. The regulations governing set-offs and withholdings found at part 1403 of this chapter shall be applicable to this part.

§ 1439.13 Assignments of payments.

Payments which are earned by a person under the emergency livestock feed programs may be assigned in accordance with the provisions of 7 CFR part 1404.

§ 1439.14 Limitation of authority.

No delegation herein to a State or county committee or a commodity office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee or employee of the Department of Agriculture.

§ 1439.15 Appeals.

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at part 780 of this chapter.

§ 1439.16 Misrepresentation, scheme or device.

A person who is determined by the State committee or the county committee to have:

- (a) Adopted any scheme or other device which tends to defeat the purpose of this program;
- (b) Made any fraudulent representation; or
- (c) Misrepresented any fact affecting a program determination shall be ineligible to receive assistance under this program with respect to the crop year involved.

§ 1439.17 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the contract, or this part, and if any refund of a payment to CCC shall otherwise become due in connection with the contract, or this part, all payments made under this part to any person shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons in the contracting entity shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under the terms and conditions of the contract or this part.

(c) Interest shall be applicable to refunds required of the owner if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available of the monies or benefits to be refunded. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the owner.

(d) Interest determined in accordance with paragraph (c) of this section shall not be applicable to refunds required of the owner because of unintentional misaction on the part of the owner, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 1403.

(f) Persons who are a party to the emergency livestock feed program contract must refund to CCC any excess payments made by CCC with respect to such contract.